



Government of the District of Columbia  
Vincent C. Gray, Mayor  
Department of Insurance, Securities and Banking



William P. White  
Commissioner

IN THE MATTER OF:	)	
	)	
PRESTON WEALTH	)	ADMINISTRATIVE ORDER
MANAGEMENT, LLC	)	ORDER NO. <u>SB-NOI-10-13</u>
	)	
and	)	
	)	
ALEXANDER PRESTON COLE,	)	
	)	
_____ Respondents	)	

**NOTICE OF INTENT  
AND NOTICE OF OPPORTUNITY FOR HEARING**

In accordance with the provisions of the District of Columbia Administrative Procedure Act, D.C. Official Code § 2-501 *et seq.*, the Rules of Practice and Procedures for Hearings, 26 DCMR § B300 *et seq.*, and section 602 of the Securities Act of 2000, effective September 29, 2000 (D.C. Law 13-203, D.C. Official Code § 31-5601.01 *et seq.* (2001)) ("Act"), D.C. Official Code § 31-5606.02; Preston Wealth Management, LLC ("PWM") and Alexander Preston Cole ("Cole") (jointly referred to as "Respondents") are hereby given notice that the Department of Insurance, Securities and Banking ("Department") intends to issue an order against Respondents directing them to cease and desist from: (1) employing a device, scheme, or artifice to defraud, in violation of D.C. Official Code § 31-5605.02(a)(1); (2) engaging in unethical and/or dishonest practices, in violation of D.C. Official Code § 31-5602.07(a)(9); (3) failing to promptly file amendments to documents filed with the Department, in violation of D.C. Official Code § 31-5602.04(d) and 26 DCMR § 153.1, and (4) engaging in a transaction, practice, or course of business which operates, or would operate, as a fraud or deceit upon a person and from charging clients unreasonable advisory fees, in violation of D.C. Official Code § 31-5605.02(a)(1)(C) and 26 DCMR § B176.1. The Department will also seek to impose a civil penalty, restitution, and a bar from engaging in securities business in the District of Columbia against Respondents.

**I. JURISDICTION**

Whenever the Commissioner determines after notice and a hearing, unless the right to a hearing is waived, that a person has engaged in an act or practice constituting a violation under the Act, or any rule or order adopted under the Act, the Commissioner may, (1) issue a cease and desist order against the person; (2) censure the person if the person is licensed under the Act; (3) bar the person

from engaging in the securities business or investment advisory business; (4) issue an order against the person imposing a civil penalty up to \$10,000 for any single violation of the Act; or (5) issue an order requiring the person to pay restitution and reasonable costs of the hearing, in addition to taking any other action authorized under this Act, pursuant to D.C. Official Code § 31-5606.02 (b).

This Notice of Intent ("Notice") constitutes notice of the Department's intent to take action against Respondents pursuant to D.C. Official Code § 31-5606.02(b) based on activities as alleged in this Notice, and provides Respondents with an opportunity for a hearing under D.C. Official Code § 31-5606.02 (b) and 26 DCMR § B304.2.

Pursuant to D. C. Official Code § 31-5606.02(b), the Commissioner may issue a proposed or final decision adverse to Respondents if a written answer is not filed with the Commissioner within 15 days of service of this Notice of Intent. Please also be advised that pursuant to 26 DCMR § B304, if Respondents do not file a timely written answer, the allegations of the notice of intent shall be deemed admitted. In addition to providing a written response to these allegations, Respondents should indicate, in the written answer, whether they wish to request a hearing concerning this Notice.

## **II. RESPONDENTS**

1. During the times relevant to this proceeding, PWM reported in filings with the Department that its principal place of business was located at 1629 K Street NW, Suite 300, Washington, D.C. 20006. PWM has also conducted business under the name of Arjent Wealth Managers, LLC. Neither PWM nor Arjent Wealth Managers is registered as a foreign or domestic corporation in the District.
2. Alexander Preston Cole is majority owner and Chief Executive Officer of PWM.

## **III. STATEMENT OF FACTS**

On information and belief, the Department alleges the following as the basis for this Notice:

1. PWM was licensed as an investment adviser in the District of Columbia, but the license was terminated at different periods. The District of Columbia initially approved PWM's investment adviser license on September 27, 2011. PWM's license was then terminated on December 31, 2011 due to a failure to renew, because the funds in PWM's Financial Industry Regulatory Authority ("FINRA") account were insufficient to pay the renewal fee required by 26 DCMR § B161. PWM submitted a new investment adviser licensing application on January 13, 2012 and the District of Columbia subsequently re-licensed PWM as an investment adviser on March 5, 2012. PWM's investment adviser license was again terminated on December 31, 2012 due to a failure to renew, because the funds in PWM's FINRA account were insufficient to pay the renewal fee, as required by 26 DCMR § B161.
2. Cole has been licensed as an investment adviser representative for PWM in the District of Columbia, but his license was terminated at different periods. Cole initially applied for license as an investment adviser representative associated with PWM on September 14, 2011. The District of Columbia approved Cole's investment adviser representative license on November 14, 2011. Cole's license was then terminated on December 31, 2011 due to failure to renew, because the funds in PWM's FINRA account were insufficient to pay the renewal fee required by 26 DCMR § B161.

Cole submitted a new investment adviser representative application on March 3, 2012 and the District of Columbia subsequently re-licensed Cole as an investment adviser representative on March 5, 2012. Cole's investment adviser representative license was again terminated on December 31, 2012 due to a failure to renew because the funds in PWM's FINRA account were insufficient to pay the renewal fee, as required by 26 DCMR § B161.

3. PWM's Form ADV<sup>2</sup> identified Cole as the "Regulatory Contact Person" who was authorized to receive information and respond to questions about PWM's Form ADV. Cole was also the person responsible for PWM's compliance program.

4. Respondents are not currently licensed as an investment adviser or investment adviser representative in the District and are not approved to transact business as an investment adviser or investment adviser representative in the District of Columbia.

5. PWM employed two individuals, ("TD") and ("GM") as investment adviser representatives. Neither employee was located in the District of Columbia. Both TD and GM worked in Arlington, VA. The District approved TD's investment adviser representative license on June 26, 2012. Virginia approved TD's and GM's investment adviser representative licenses on June 27, 2012. A third person, ("DB"), is identified as a partial owner and Senior Executive Partner of PWM, but was not licensed as an investment adviser representative for PWM.

6. PWM initially identified on its Form ADV, the investment adviser licensing application, that its principal office and place of business was located at 1050 Connecticut Avenue, NW, 10th Floor, Washington, D.C., 20036. On February 23, 2012, PWM amended its Form ADV to identify that its principal office and place of business was located at 1629 K Street NW, Suite 300, Washington, D.C., 20006.

7. Respondents maintained a website, [www.prestonwealth.com](http://www.prestonwealth.com), from at least October 10, 2011 to January 4, 2013. Respondents' website also stated that PWM maintained an office location in the District of Columbia, initially at 1050 Connecticut Avenue, NW, 10th Floor, Washington, D.C., 20036 and then at 1629 K Street NW, Suite 300, Washington, D.C., 20006.

8. The Examinations Division of the Securities Bureau of the Department conducted an initial targeted examination of PWM's advisory business at the 1629 K Street NW location on November 9, 2012 with Cole and his attorney. The initial examination is directed at new investment advisers located in the District of Columbia and is targeted on the adviser's filings, public documents, compliance manual, and standard advisory contract. Prior to the on-site meeting, examiners review these documents and detail findings and concerns for the adviser to correct. At the meeting, examiners provided Respondents with a written letter detailing seventeen deficiencies where PWM was in violation of the Act or were areas of concern that indicated potential violations and recommended PWM enact policies and procedures to avoid non-compliance.

9. From its initial application on September 14, 2011, until November 6, 2012, PWM stated on its Form ADV that it managed no accounts and had \$0 in assets under management. On November 6,

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<sup>2</sup> Form ADV is the uniform form used by investment advisers to register with both the Securities and Exchange Commission (SEC) and state securities authorities.

2012, PWM amended its Form ADV to state that it managed 273 accounts and had over \$30 million in assets under management.

10. On December 17, 2012, TD filed a complaint with the Department alleging that Cole was billing clients in excess of what was allowed under client contracts from June through December 2012. TD asserted that attempts made by TD, GM, and DB to have Cole return client funds were unsuccessful, and that Cole failed to pay PWM's bills related to the business. In his complaint, TD stated that he believed that Cole was taking money from the PWM business account for his own personal use, and that due to TD threatening to report Cole's actions to regulatory authorities, Cole terminated TD's employment on December 16, 2012.

11. On December 17, 2012, TD and GM also contacted the Virginia State Corporation Commission, Division of Securities and Retail Franchising to submit a complaint alleging that Cole was billing clients in excess of what was allowed under client contracts from June through December 2012 and that attempts by TD, GM, and DB to have Cole return client funds had been unsuccessful.

12. Based on TD's complaint, the Department conducted an examination of PWM's books and records. They obtained PWM's records from a Falls Church, VA location on December 19, 2012 and reviewed the documents from December 19<sup>th</sup> -21<sup>st</sup>, 2012.

13. The Department's Examiners also reviewed the PWM client account statements that had been obtained from Charles Schwab & Co. Inc., the custodian for PWM's client accounts. Schwab also provided examiners with a fee report identifying each instance in which PWM deducted an advisory fee from a client account and the user ID that was used to authorize the fee deduction. Schwab also identified each representative's user ID.

14. PWM has a standard advisory agreement that it utilized with most clients. Under the standard agreement, clients agreed that PWM would charge a quarterly fee in advance based on the value of the assets in the household and/or account on the last billing day of the prior billing quarter. The client also agreed that the fee would be automatically deducted from the cash balance of their accounts and that small portions of positions in the account may be sold to allow the account to have a cash balance necessary for the automatic deduction of fees. The standard advisory agreement provided the following fee schedule:

- On amounts up to \$500,000 1.44% annually
- On amounts from \$500,000 to \$2 Million 1.25% annually
- On amounts from \$2 Million to \$5 Million 1.10% annually
- On amounts over \$5 Million 0.70% annually

15. From June through December 2012, PWM had 139 investment advisory clients who were located in the District of Columbia, Colorado, Florida, Maryland, Massachusetts, Michigan, North Carolina, Pennsylvania, South Carolina, Utah, Virginia, and West Virginia.

16. Of PWM's 139 advisory clients, 101 clients had advisory agreements on file. Additionally, Respondents charged fees to 18 of the 38 clients without an advisory agreement on file, despite lacking the contractual authority to charge any fee.

17. One hundred twenty-one (121) clients provided PWM with trading and disbursement authority as well as fee deduction authority on their Schwab accounts. One client provided PWM with trading and disbursement authority, but not fee deduction authority.
18. Respondents, using Cole's representative user ID issued by Schwab, instructed Schwab on numerous occasions to deduct advisory fees from client accounts that were in excess of what was allowed under the client contracts and at times when fee deductions were not allowed by the client contracts.
19. From June through December 2012, Respondents directly deducted at least \$102,000 in excessive advisory fees from at least 96 investment advisory clients.
20. Schwab terminated Cole's fee deduction authority in December 2012.
21. Respondents' website stated that Cole was "a graduate of Drew University, Harvard University and Harvard Business School."
22. Cole maintains a LinkedIn profile which states that he is the Chief Executive Officer at PWM. The profile also identifies Cole's education as attending Harvard Business School from 2005 to 2008 and Harvard University from 2002 to 2003.
23. Cole's Form U4 states on his employment history that Cole was a graduate student at Harvard University from January 2002 to June 2003 and a graduate student at Harvard Business School from January 2007 to May 2008.
24. PWM's Form ADV, Part 2A provides describes Cole's educational background as follows:  
Educational Background –  
Harvard Business School, 2008  
Harvard University, 2003  
Drew University, 1997
25. PWM's Form ADV, Part 2B states that Cole "is a graduate of Drew University, Harvard University and Harvard Business School."
26. Harvard College, Harvard Graduate School of Arts and Sciences, and Harvard Business School separately informed the Department that none of them had any record that Cole attended or received a degree from their school.
27. The Harvard Extension School informed the Department that Cole attended the Harvard Extension School from January 2002 to December 2008 and that he received a Certificate of Administration and Management in March 2003.
28. The Harvard Extension School is part of the Division of Continuing Education in the Faculty of Arts and Sciences at Harvard University. The Harvard Extension School is separate from Harvard College. The Harvard Extension School offers certificates in certain areas of instruction. According to the website of the Harvard Extension School, its certificates are not part of a degree-granting

program; certificates are “quick professional development credentials” and students “do not receive alumni status or participate in Commencement after earning a certificate.”

#### IV. VIOLATIONS

1. D.C. Official Code § 31-5605.02(a)(1), makes it unlawful for any person, in connection with the rendering of investment advice, directly or indirectly to (A) employ a device, scheme, or artifice to defraud, (B) obtain money or property by means of an untrue statement of a material fact or an omission to state a material fact in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or (C) engage in a transaction, practice, or course of business which operates, or would operate, as a fraud or deceit upon a person.
2. D.C. Official Code § 31-5602.07(a)(9), allows the Commissioner, by order, to deny, suspend, or revoke a license if the Commissioner finds that the order is in the public interest and the applicant or licensed person or, in the case of a broker-dealer or investment adviser, a partner, officer, or director, or a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the broker-dealer or investment adviser has engaged in an unethical or dishonest practice in the securities business as the Commissioner may, by rule, define.
  - a. 26 DCMR § B176.1(j), for the purposes of D.C. Official Code § 31-5602.07(a)(9), deems that it is an unlawful, unethical, or dishonest conduct or practice by an investment adviser or investment adviser representative of an investment adviser to charge a client an unreasonable advisory fee.
3. D.C. Official Code § 31-5602.04(d) provides that if the information contained in any document filed with the Commissioner is, or becomes, inaccurate or incomplete in any material respect, a licensed investment adviser shall promptly file a correcting amendment with the Commissioner.
4. 26 DCMR § 153.1 provides that if the information contained in Form ADV for a license as an investment adviser or investment adviser representative, or any amendment thereto, is or becomes inaccurate or incomplete in any material respect for any reason, the applicant or registrant shall promptly file a correcting amendment with the IARD.
5. D.C. Official Code § 31-5602.07(a)(9), allows the Commissioner, by order, to deny, suspend, or revoke a license if the Commissioner finds that the order is in the public interest and the applicant or licensed person or, in the case of a broker-dealer or investment adviser, a partner, officer, or director, or a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the broker-dealer or investment adviser has engaged in an unethical or dishonest practice in the securities business as the Commissioner may, by rule, define.
  - a. 26 DCMR § 176.1(h), for the purposes of D.C. Official Code § 31-5602.07(a)(9), deems that it is an unlawful, unethical, or dishonest conduct or practice by an investment adviser or investment adviser representative of an investment adviser to misrepresent to any advisory client, or prospective advisory client, the qualifications

of the investment adviser or any employee of the investment adviser, or to omit to state a material fact necessary to make the statements regarding qualifications, in light of the circumstances under which they are made, not misleading.

- b. 26 DCMR §176.1(m), for the purposes of D.C. Official Code § 31-5602.07(a)(9), provides that it is an unlawful, unethical, or dishonest conduct or practice by an investment adviser or investment adviser representative of an investment adviser to publish, circulate or distribute any advertisement which does not comply with Rule 206(4)-1 under the Investment Advisers Act of 1940. Rule 206(4)-1(a)(5), 17 C.F.R. § 275.206(4)-1(a)(5) (2013), makes it a fraudulent, deceptive, or manipulative act, practice, or course of business for any investment adviser, directly or indirectly, to publish, circulate, or distribute any advertisement which contains any untrue statement of a material fact, or which is otherwise false or misleading.

## **V. CONCLUSIONS OF LAW**

1. Respondents provided false fee deduction instructions to the firm that had custody of clients' brokerage accounts, and Respondents obtained advisory fees that were in excess of what was allowed under clients' advisory agreements and occurred at times that were not permitted by clients' advisory agreements, in violation of the anti-fraud provisions of D.C. Official Code § 31-5605.02(a)(1).
2. Respondents charged advisory fees to clients that were in excess of what was allowed under clients' advisory agreements and at times that were not permitted by clients' advisory agreements in violation of the unlawful, unethical, or dishonest conduct or practice provisions of D.C. Official Code § 31-5602.07(a)(9) and 26 DCMR § B176.1.
3. Respondents submitted filings to the Department through the IARD system that contained false and misleading information about Cole's educational background, stating that Cole attended and graduated from Harvard University and Harvard Business School. Such inaccurate statements are material to the evaluation of Cole's educational background and qualifications and are in violation of D.C. Official Code § 31-5602.04(d) and 26 DCMR §153.1.

**SEAL**

**APPROVED and so ORDERED:**

In Witness Whereof, I have hereunto  
set my hand and affixed the official seal  
of the Department of Insurance, Securities  
and Banking, this 10<sup>th</sup> day of July, 2013



*William P. White*

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William P. White,  
Commissioner

## NOTICE AND OPPORTUNITY FOR HEARING

Respondents may request a hearing pursuant to D.C. Official Code § 31-5606.02. A request for hearing must be in writing and received by the Commissioner within 15 days of receipt of this Notice and Notice of Opportunity for Hearing. In addition, a written answer to the allegations must be filed with the Commissioner within 15 days of service of this Notice, pursuant to 26 DCMR § B304. Each Respondent must deliver or mail the request for a hearing and written answer to the **Department of Insurance, Securities and Banking, 810 First Street, NE, Suite 701, Washington, D.C. 20002, Attn: Hearing Officer**. Failure to request a hearing within the 15 days of receipt of this Notice will result in a final action being issued against you, pursuant to D.C. Official Code § 31-5606.02(b)(2).

Lilah R. Blackstone, Assistant Attorney General, Office of Legal Affairs will represent the Department. A copy of any pleading or other written communication should be delivered to Ms. Blackstone, Department of Insurance, Securities and Banking, 810 First Street, NE, Suite 701, Washington, DC 20002, and to all parties involved.

## CERTIFICATE OF SERVICE

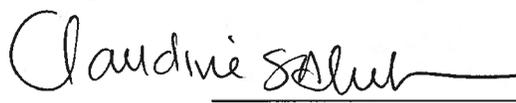
I hereby certify that a copy of the foregoing **NOTICE OF INTENT** and **NOTICE OF OPPORTUNITY FOR HEARING** was mailed first class mail, postage pre-paid, return receipt requested to:

Alexander Cole  
Preston Wealth Management, LLC  
102 NE 2nd Street #293  
Boca Raton, FL 33432

Alexander Cole  
Preston Wealth Management, LLC  
433 Plaza Real  
2nd Floor  
Boca Raton, FL 33432

Alexander Cole  
Preston Wealth Management, LLC  
460 L Street NW  
Penthouse 824  
Washington, D.C. 20001

Alexander Cole  
Preston Wealth Management, LLC  
1629 K Street NW  
Suite 300  
Washington, D.C. 20006

 July 11, 2013  
\_\_\_\_\_  
Claudine Alula, Paralegal